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(Original Signature of Member)

110TH CONGRESS
1ST SESSION

H. R. _____

To extend the Mark-to-Market program of the Department of Housing and
Urban Development, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. WATERS (for herself, Mr. FRANK of Massachusetts, and Ms. PRYCE of
Ohio) introduced the following bill; which was referred to the Committee
on _____

A BILL

To extend the Mark-to-Market program of the Department
of Housing and Urban Development, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Mark-to-Market Extension and Enhancement Act of
6 2007”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Purposes.
- Sec. 3. Definitions.
- Sec. 4. Extension of Mark-to-Market program.
- Sec. 5. Exception rents.
- Sec. 6. Otherwise eligible projects.
- Sec. 7. Disaster-damaged eligible projects.
- Sec. 8. Period of eligibility for nonprofit debt relief.
- Sec. 9. Correcting harm caused by late subsidy payments.
- Sec. 10. Effective date.

1 **SEC. 2. PURPOSES.**

2 The purpose of this Act is to—

3 (1) continue the progress of the Multifamily As-
4 sisted Housing Reform and Affordability Act of
5 1997, as amended by the Mark-To-Market Exten-
6 sion Act of 2001;

7 (2) expand eligibility for Mark-to-Market re-
8 structuring so as to further the preservation of af-
9 fordable housing in a cost-effective manner; and

10 (3) provide for the preservation and rehabilita-
11 tion of projects damaged by Hurricanes Katrina,
12 Rita, and Wilma, or by other natural disasters.

13 **SEC. 3. DEFINITIONS.**

14 Section 512 of the Multifamily Assisted Housing Re-
15 form and Affordability Act of 1997 (42 U.S.C. 1473f
16 note) is amended by adding at the end the following:

17 “(20) DISASTER-DAMAGED ELIGIBLE
18 PROJECT.—

1 “(A) IN GENERAL.—The term ‘disaster-
2 damaged eligible project’ means an otherwise el-
3 igible multifamily housing project—

4 “(i) that is located in a county that
5 was designated a major disaster area on or
6 after January 1, 2005, by the President
7 pursuant to title IV of the Robert T. Staf-
8 ford Disaster Relief and Emergency Assist-
9 ance Act (42 U.S.C. 5121 et seq.);

10 “(ii) whose owner carried casualty and
11 liability insurance covering such project in
12 an amount required by the Secretary;

13 “(iii) that suffered damages not cov-
14 ered by such insurance that the Secretary
15 determines is likely to exceed \$5,000 per
16 unit in connection with the natural disaster
17 that was the subject of the designation de-
18 scribed in subparagraph (A); and

19 “(iv) whose owner requests restruc-
20 turing of the project not later than 2 years
21 after the date that such damage occurred.

22 “(B) RULE OF CONSTRUCTION.—A dis-
23 aster-damaged eligible project shall be eligible
24 for amounts under this Act without regard to
25 the relationship between rent levels for the as-

1 sisted units in such project and comparable
2 rents for the relevant market area.”.

3 **SEC. 4. EXTENSION OF MARK-TO-MARKET PROGRAM.**

4 Section 579 of the Multifamily Assisted Housing Re-
5 form and Affordability Act of 1997 (42 U.S.C. 1473f
6 note) is amended by striking “October 1, 2011” each place
7 such term appears and inserting “October 1, 2012”.

8 **SEC. 5. EXCEPTION RENTS.**

9 Section 514(g)(2) of the Multifamily Assisted Hous-
10 ing Reform and Affordability Act of 1997 (42 U.S.C.
11 1473f note) is amended—

12 (1) by inserting “disaster-damaged eligible
13 projects and” after “waive this limit”; and

14 (2) by striking “five percent” and inserting “9
15 percent”.

16 **SEC. 6. OTHERWISE ELIGIBLE PROJECTS.**

17 Section 514 of the Multifamily Assisted Housing Re-
18 form and Affordability Act of 1997 (42 U.S.C. 1473f
19 note) is amended by adding at the end the following:

20 “(i) OTHER ELIGIBLE PROJECTS.—

21 “(1) IN GENERAL.—Notwithstanding any other
22 provision of this subtitle, a project that meets the re-
23 quirements of subparagraphs (B) and (C) of section
24 512(2) but does not meet the requirements of sub-
25 paragraph (A) of section 512(2), may be treated as

1 an eligible multifamily housing project on an excep-
2 tion basis if the Secretary determines, subject to
3 paragraph (2), that such treatment is necessary to
4 preserve the project in the most cost-effective man-
5 ner in relation to other alternative preservation op-
6 tions.

7 “(2) OWNER REQUEST.—

8 “(A) REQUEST REQUIRED.—The Secretary
9 shall not treat an otherwise eligible project de-
10 scribed under paragraph (1) as an eligible mul-
11 tifamily housing project unless the owner of the
12 project requests such treatment.

13 “(B) NO ADVERSE TREATMENT IF NO RE-
14 QUEST MADE.—If the owner of a project does
15 not make a request under subparagraph (A),
16 the Secretary shall not withhold from such
17 project any other available preservation option.

18 “(3) CANCELLATION.—

19 “(A) TIMING.—At any time prior to the
20 completion of a mortgage restructuring under
21 this subtitle, the owner of a project may—

22 “(i) withdraw any request made under
23 paragraph (2)(A); and

24 “(ii) pursue any other option with re-
25 spect to the renewal of such owner’s sec-

1 tion 8 contract pursuant to any applicable
2 statute or regulation.

3 “(B) DOCUMENTATION.—If an owner of a
4 project withdraws such owner’s request and
5 pursues other renewal options under this para-
6 graph, such owner shall be entitled to submit
7 documentation or other information to replace
8 the documentation or other information used
9 during processing for mortgage restructuring
10 under this subtitle.

11 “(4) LIMITATION.—The Secretary may exercise
12 the authority to treat projects as eligible multifamily
13 housing projects pursuant to this subsection only to
14 the extent that the number of units in such projects
15 do not exceed 10 percent of all units for which mort-
16 gage restructuring pursuant to section 517 is com-
17 pleted.”.

18 **SEC. 7. DISASTER-DAMAGED ELIGIBLE PROJECTS.**

19 (a) MARKET RENT DETERMINATIONS.—Section
20 514(g)(1)(B) of the Multifamily Assisted Housing Reform
21 and Affordability Act of 1997 (42 U.S.C. 1473f note) is
22 amended by striking “determined, are equal” and insert-
23 ing the following: “determined—

24 “(i) with respect to a disaster-dam-
25 aged eligible property, are equal to 100

1 percent of the fair market rents for the rel-
2 evant market area (as such rents were in
3 effect at the time of such disaster; and
4 “(ii) with respect to other eligible
5 multifamily housing projects, are equal”.

6 (b) OWNER INVESTMENT.—Section 517(c) of the
7 Multifamily Assisted Housing Reform and Affordability
8 Act of 1997 (42 U.S.C. 1473f note) is amended by adding
9 at the end the following:

10 “(3) PROPERTIES DAMAGED BY NATURAL DIS-
11 ASTERS.—With respect to a disaster-damaged eligi-
12 ble property, the owner contribution toward rehabili-
13 tation needs shall be determined in accordance with
14 paragraph (2)(C).”.

15 **SEC. 8. PERIOD OF ELIGIBILITY FOR NONPROFIT DEBT RE-**
16 **LIEF.**

17 Section 517(a)(5) of the Multifamily Assisted Hous-
18 ing Reform and Affordability Act of 1997 (42 U.S.C.
19 1473f note) is amended by adding at the end the following:
20 “If such purchaser acquires such project subsequent to the
21 date of recordation of the affordability agreement de-
22 scribed in section 514(e)(6)—

23 “(1) such purchaser shall acquire such project
24 on or before the later of—

1 “(A) 5 years after the date of recordation
2 of the affordability agreement; or

3 “(B) 2 years after the date of enactment
4 of the Mark-to-Market Extension and Enhance-
5 ment Act of 2007; and

6 “(2) the Secretary shall have received, and de-
7 termined acceptable, such purchaser’s application for
8 modification, assignment, or forgiveness prior to the
9 acquisition of the project by such purchaser.”.

10 **SEC. 9. CORRECTING HARM CAUSED BY LATE SUBSIDY**
11 **PAYMENTS.**

12 Section 8 of the United States Housing Act of 1937
13 (42 U.S.C. 1437f) is amended by adding at the end the
14 following new subsection:

15 “(ff) LATE PAYMENTS.—

16 “(1) GENERAL.—The Secretary shall make pay-
17 ments of project-based rental assistance provided
18 under this section for each month on or before the
19 due date under paragraph (2) for the payment.

20 “(2) DUE DATE.—The due date under this
21 paragraph for a monthly payment is the first busi-
22 ness day of the month.

23 “(3) NOTIFICATION OF LATE PAYMENT.—The
24 Secretary shall notify a project owner at least 10
25 days before the due date for a housing assistance

1 payment if such payment will be late and shall in-
2 form the project owner of the approximate date the
3 payment will be made.

4 “(4) USE OF RESERVES.—If a housing assist-
5 ance payment for a project has not been received be-
6 fore the expiration of the 10-day period beginning
7 upon the due date for such payment, the project
8 owner shall, after the expiration of such period, be
9 entitled to obtain funds from a project replacement
10 reserve, residual receipts reserve, or other project re-
11 serve in order to pay operating and debt service
12 costs for the project.

13 “(5) INTEREST PAYMENT.—If a monthly hous-
14 ing assistance payment is not made before the expi-
15 ration of the 30-day period beginning upon the due
16 date for such payment, the Secretary shall pay to
17 the owner simple interest on the amount of such
18 monthly payment, from the due date until the date
19 of payment, at a rate determined by the Secretary
20 of Treasury in accordance with section 12 of the
21 Contract Disputes Act of 1978 (41 U.S.C. 611). In-
22 terest payments under this paragraph shall be made
23 from amounts made available for management and
24 administration of the Department of Housing and
25 Urban Development.”.

1 **SEC. 10. EFFECTIVE DATE.**

2 This Act, and the amendments made by this Act,
3 shall take effect on the earlier of—

4 (1) the date of enactment of this Act; or

5 (2) September 30, 2008.